


**MARYLAND HEALTH CARE COMMISSION**

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**MEMORANDUM**

**TO:** Commissioners

**FROM:** Kevin R. McDonald  
Chief, Certificate of Need 

**DATE:** July 16, 2015

**SUBJECT:** Lorien Bel Air  
Addition of Beds by an Existing Nursing Home  
Docket No. 15-12-2358

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Enclosed is the staff report and recommendation for a Certificate of Need (“CON”) application filed by Lorien Harford, Inc., d/b/a Lorien Bel Air. Lorien Bel Air is an existing long-term care facility with 69 comprehensive care facility (“CCF” or “nursing home”) beds and 56 assisted living facility units located at 1909 Emmorton Road in Bel Air, Harford County.

In February, 2014, MHCC granted this facility CON approval to add 21 CCF beds to the existing 69 bed facility at a cost of \$2,334,063 (Docket No. 13-12-2345). When the Commission released corrected and updated CCF bed need projections for the same target year of 2016 in October, 2014, a larger deficit of beds was identified for Harford County. The deficit increased from 21 beds, or 2.6% of the existing bed inventory in Harford County, to 97 beds, equivalent to 12.0% of existing inventory. Because of this change, Lorien reassessed its Harford County plans. In the case of the Bel Air facility, the result is this application to seek a larger bed addition to the Bel Air facility than that authorized 17 months ago.

An approval of this application would result in a project that would add 48 CCF beds (this application for 27 beds + the 21 additional bed approved in 2014) to the Bel Air facility, resulting in a nursing home with 117 CCF beds upon project completion. Lorien Bel Air would also increase the number of assisted living units on the campus to 34, increasing the total number to 90 assisted living units.

The total estimated cost of constructing a new 54,960 gross square foot, three-story addition to the existing facility is \$13,033,743, of which \$5,807,345 is the cost of adding the 48 CCF beds. Lorien Bel Air will fund project with approximately \$2.5 million in cash contributions, a mortgage loan of \$10 million, and a \$540,000 loan for furniture, fixtures, and equipment.

Commission staff analyzed the proposed project's compliance with the applicable State Health Plan criteria and standards at COMAR 10.24.01.08G(3) and the other applicable CON review criteria at COMAR 10.24.08 and recommends that the project be APPROVED with the following condition:

*At the time of first use review, Lorien Bel Air shall provide the Commission with a modified Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2) for all of Lorien Bel Air's licensed CCF beds.*

Staff also recommends that this action should supersede and replace an earlier CON issued to Lorien Bel Air for a 21-bed addition to the facility, Docket No. 13-12-2345, rendering that CON void.

IN THE MATTER OF  
LORIEN HARFORD, INC.  
DOCKET NO. 15-12-2358

\* BEFORE THE  
\*  
\* MARYLAND HEALTH  
\*  
\* CARE COMMISSION  
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## **Staff Report and Recommendation**

**July 16, 2015**

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IN THE MATTER OF	*	BEFORE THE
	*	
LORIEN HARFORD, INC.	*	MARYLAND HEALTH
	*	
DOCKET NO. 15-12-2358	*	CARE COMMISSION
	*	

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## STAFF REPORT AND RECOMMENDATION

### I. INTRODUCTION

#### A. The Applicant

Lorien Harford, Inc., doing business as Lorien Bel Air, is a long term care facility currently consisting of 69 comprehensive care facility (“CCF” or “nursing home”) beds and 56 assisted living facility units located at 1909 Emmorton Road in Bel Air, Harford County.

Lorien Harford, Inc., is owned by 10 members of the Mangione family, each of whom holds a 10% interest in the corporation.<sup>1</sup> Members of the Mangione family hold controlling interest in multiple companies. One of those is Maryland Health Enterprises, doing business as Lorien Health Systems (“LHS”), which is a management company that is the operator of the applicant. LHS manages nine nursing home/rehabilitation facilities, with a total of 822 CCF beds, located in Baltimore, Carroll, Harford, and Howard Counties.

The applicant’s quality track record is good, ranking higher than the State average nursing home performance on a majority of key selected quality measures. Details are provided in Part III of this report in the section addressing the Quality standard.

#### B. The Project

On February 20, 2014, the Maryland Health Care Commission (“MHCC”) granted CON approval (Docket No. 13-12-2345) to Lorien to add 21 CCF beds (of the 42 projected as needed at the time) to the existing 69-bed facility at a cost of \$2,334,063. That project also included plans to add 20 assisted living units<sup>2</sup> through the construction of a three-story, 29,100 gross square foot (“SF”) addition. That project, if implemented, would have resulted in a facility containing 90 CCF beds and 76 assisted living units.

Before the first performance requirement was due for the 2014 CON, however, corrected and updated bed need projections published in the *Maryland Register* on October 3, 2014

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<sup>1</sup> The owners are: Louis Mangione, John Mangione, Rosemary (Mangione) Juras, Linda (Mangione) Licata, Nicholas Mangione, Jr., Joanne (Mangione) Hock, Peter Mangione, Frances (Mangione) O’Keefe, Samuel Mangione, Esq., and Michele Mangione Collison.

<sup>2</sup> There would be ten units added to each of the first and second floors. The assisted living component of this project is not subject to Certificate of Need (“CON”) review and approval.

showed a need for 97 additional CCF beds in Harford County. (See Appendix 3) Lorien submitted letters of intent for two projects designed to meet that need. One was for a 70-bed facility in Forest Hill that was approved by MHCC in June of 2015 (Docket No. 15-12-2359). The other, later modified, resulted in was for this proposed project to add 27 CCF beds to the Bel Air facility (in addition to the 21 approved-but-not-yet-built beds).

As shown in the table below, this application is a request by an existing 69-bed CCF that currently holds an approved-but-unimplemented CON to add 21 CCF beds, and which seeks to add 27 more beds. CON approval would result in a project that would add 48 additional CCF beds to the existing facility, for a total of 117 CCF beds upon project completion. This requested project revision has resulted in a hold on the approved project.

	<b>CCF beds</b>	<b>Assisted Living beds</b>	<b>Total Project Cost</b>	<b>Cost of CCF component</b>
<b>Current</b>	69	56		
<b>Authorized in February 2014 CON</b>	21	20	\$6,548,938	\$2,334,063
<b>Proposed in this project</b>	27	14		
<b>Total bed complement if this project is approved</b>	117	90	\$13,033,743	\$5,807,345

As a practical matter this proposed project – while technically a CON application for 27 additional CCF beds – will be reviewed as a 48-bed addition. If approved, the CON for 21 beds currently held by Lorien Bel Air would be voided and superseded by a new CON for 48 beds.

This proposed project involves the construction of a new 54,960 gross SF, three-story addition to the existing facility. The third floor of this addition would hold the 48 CCF beds (14 double occupancy and 20 single occupancy patient rooms) in a space of 18,320 SF.<sup>3</sup>

The total estimated cost of constructing the three-story addition is \$13,033,743. The cost of constructing the nursing home component of the project (the 48 additional CCF beds) is \$5,807,345. Lorien expects to fund the addition with \$2,493,743 in cash equity from the owner; a \$540,000 loan for furniture, fixtures, and equipment; and a \$10,000,000 mortgage loan from a commercial lender.

### **C. Staff Recommendation**

Staff concludes that the proposed project complies with the applicable standards in COMAR 10.24.01.08, State Health Plan: Nursing Home and Home Health Agency Services, as well as with the criteria at COMAR 10.24.01.08G(3) and, for these reasons, recommends **APPROVAL** with the following condition:

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<sup>3</sup> The project includes the construction of first and second floor additions that would operate with an additional 34 assisted living units; upon project completion, Lorien Bel Air would have a total of 90 ALUs.

At the time of first use review, Lorien Bel Air shall provide the Commission with a modified Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2) for all of Lorien Bel Air's licensed CCF beds and shall maintain compliance with the Memorandum of Understanding.

## **II. PROCEDURAL HISTORY**

### **A. Record of the Review**

Please see Appendix 1, Record of the Review.

### **B. Local Government Review and Comment**

Local government agencies did not submit comments on this project.

### **C. Community Support**

A number of individuals, listed below, submitted letters in support of the Lorien Bel Air project.

1. Delegate Peter A. Hammen, 46<sup>th</sup> Legislative District, Baltimore City
2. Delegate Shane Pendergrass, 13<sup>th</sup> Legislative District, Howard County
3. Barry Glassman, Harford County Executive
4. James V. McMahan, Jr., Councilman, District C, County Council of Harford County
5. Lyle E. Sheldon, President/CEO, University of Maryland Upper Chesapeake Health
6. Benjamin Y. Lee, MD
7. Suresh Dhanjani, MD, Harford Primary Care, LLC
8. Cheryl Bayne, RN
9. Pat Pawloski, Executive Director, Pets on Wheels, Inc.
10. Don Orlando, President, Right at Home
11. Wayne Tapscott, Paidon Products
12. Carol Brockmeyer
13. Michael A. Citrano
14. Leslie Faber
15. Jack Grimm
16. Angela Soul
17. George L. Werneke, Jr.

Delegates Hammen and Pendergrass state in their coauthored letter that "while Lorien Bel Air is not in either of their districts, as Chair and Vice-Chair of the Health & Government Operations Committee, both have a strong interest in supporting the development of responsive health care facilities that meet the growing needs of the elderly population efficiently and



effectively.” Both acknowledge Lorien’s on-site continuum of care and note the applicant’s “innovative use of technology to help reduce unnecessary Hospital Admissions and Re-Admissions.” Harford County Executive Glassman concurs by stating that Lorien Bel Air “allows residents to ‘age in place’ by providing access to needed services without having to leave the County or their area of residence.”

The remaining letters of support are from either health care professionals serving Harford County or residents of this jurisdiction. Each supports the proposed addition of the 27 CCF beds with the 21 previously approved CCF beds to establish a 117-bed CCF. These letters discuss Lorien’s “age in place” model of care that offers a continuum of care with skilled nursing and assisted living care within the same campus. They note that Lorien facility provides needed services and a wide range of activities that increase resident dignity and improve the quality of life for the elderly in Harford County.

#### **D. Interested Parties**

There are no interested parties in this review.

### **III. PROJECT CONSISTENCY WITH REVIEW CRITERIA AND STANDARDS**

#### **A. STATE HEALTH PLAN**

***COMAR 10.24.01.08G(3)(a) State Health Plan. An application for a Certificate of Need shall be evaluated according to all relevant State Health Plan standards, policies, and criteria.***

The applicable chapter of the State Health Plan for this review is COMAR 10.24.08, the State Health Plan for Facilities and Services: Nursing Home and Home Health Agency Services. The specific standards to be addressed include COMAR 10.24.08.05A and .05B, the Nursing Home General Standards and Standards for New Construction or Expansion of Beds or Services for nursing home projects.

#### **COMAR 10.24.08**

##### **.05 Nursing Home Standards.**

##### **A. General Standards. The Commission will use the following standards for review of all nursing home projects.**

- (1) Bed Need. The bed need in effect when the Commission receives a letter of intent for the application will be the need projection applicable to the review.**

The original letter of intent for the addition of 17 CCF beds was received by MHCC on December 4, 2014. In a subsequent letter submitted on February 6, 2015, the applicant changed its request to seek the addition of 27 CCF beds. When combined with the 21 CCF beds previously approved by the Commission, Lorien seeks to add a total of 48 CCF beds to Lorien

Bel Air, which would expand the existing 69-bed facility to 117 CCF beds upon project completion. The bed need in effect is the jurisdictional gross and net bed need projection for nursing home beds in Maryland published in the October 3, 2014 *Maryland Register* (Appendix 3), which projects a need for 97 additional CCF beds in Harford County. Seventy of the CCF beds projected as needed were awarded by the Commission last month to the Lorien Harford project in Forest Hill. Approval of this CON application would result in authorization of all the additional bed capacity identified as needed in Harford County.

Harford County CCF Bed Need				
Total Bed Inventory	Gross Bed Need Projection	Unadjusted Net Bed Need	Community-based Services Adjustment	2016 Net Bed Need
806	951	145	48	97

*Source: Gross and Net 2016 Bed Need Projection for Comprehensive Care Facility Beds (Corrected and Updated Bed Inventory) (October 3, 2014)*

The proposed addition of 48 CCF beds at Lorien Bel Air (21 previously approved plus 27 additional) is consistent with the bed need in effect for Harford County.

**(2) Medical Assistance Participation.**

- (a) Except for short-stay hospital-based skilled nursing facilities required to meet .06B of this Chapter, the Commission may approve a Certificate of Need for a nursing home only for an applicant that participates, or proposes to participate, in the Medical Assistance Program, and only if the applicant documents a written Memorandum of Understanding with Medicaid to maintain the proportion of Medicaid patient days required by .05A 2(b) of this Chapter.
- (b) Each applicant shall agree to serve a proportion of Medicaid patient days that is at least equal to the proportion of Medicaid patient days in all other nursing homes in the jurisdiction or region, whichever is lower, calculated as the weighted mean minus 15.5%, based on the most recent Maryland Long Term Care survey data and Medicaid Cost Reports available to the Commission, as shown in the *Supplement to COMAR 10.24.08: Statistical Data Tables*, or in subsequent updates published in the *Maryland Register*.
- (c) An applicant shall agree to continue to admit Medicaid residents to maintain its required level of participation when attained, and have a written policy to this effect.
- (d) Prior to licensure, an applicant shall execute a written Memorandum of Understanding with the Medicaid Assistance Program of the Department of Health and Mental Hygiene to:

- (i) Achieve or maintain the level of participation required by .05A2(b) of this Chapter; and
- (ii) Admit residents whose primary source of payment on admission is Medicaid.
- (iii) An applicant may show evidence why this rule should not apply.

The applicant stated its intention to continue to participate in the Medical Assistance Program and to meet all the requirements of this standard. The most recent data reported in the 2013 MHCC Long Term Care Survey showed Lorient Bel Air provided 52.4% of patient-days to Medicaid patients, and the application projects that, with the completion and start of operation, the 117-bed CCF would have a Medicaid participation rate of 49.2% for the first year of operation, with an projected increase to 53.2% by the second and third year of operation. Although Lorient Bel Air's Medicaid participation rate is lower than the most-recently-computed jurisdictional average of 62.5%, both its historical performance and future projections exceed the required level of 47.0% for the Central Maryland planning region<sup>4</sup> and 48.6% for Harford County.

Given this stated commitment and past performance, staff concludes this application to be consistent with this standard, but, as is standard practice, recommends that approval of this application be conditioned on documentation that the modified MOU (i.e., applying to all beds) is in place when the project is completed and first use approval is requested. The proposed condition follows:

At the time of first use review, Lorient Bel Air shall provide the Commission with a modified Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2) for all of Lorient Bel Air's licensed CCF beds and shall maintain compliance with the Memorandum of Understanding.

- (3) **Community-Based Services.** An applicant shall demonstrate commitment to providing community-based services and to minimizing the length of stay as appropriate for each resident by:
  - (a) **Providing information to every prospective resident about the existence of alternative community-based services, including, but not limited to, Medicaid home and community-based waiver programs and other initiatives to promote care in the most appropriate settings.**

Lorient Bel Air states that it commitment to continuing to meet the requirements for community-based services. (DI #4, p.44). It notes that it distributes information and materials to all prospective residents regarding the availability of alternative community-based services. The applicant says that it provides each prospective resident with materials that inform patients of the

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<sup>4</sup> Which includes Baltimore City and Anne Arundel, Baltimore, Harford, and Howard Counties.

availability of alternatives to nursing home care, including a list with the phone numbers of States agencies, advocacy groups for alternative services available to seniors in the community, and access to legal resources such as the Legal Aid Bureau and Maryland Disability Law Center.

**(b) Initiating discharge planning on admission; and**

Lorien Bel Air states that it initiates discharge planning to residents upon admission as required and as part of efforts to ensure patients have access to the most appropriate level of care.

**(c) Permitting access to the facility for all “Olmstead” efforts approved by the Department of Health and Mental Hygiene and the Department of Disabilities to provide education and outreach for residents and their families regarding home and community-based alternatives.**

The applicant responded that it permits access to the facility, and encourages all *Olmstead* and any other efforts to provide education and outreach to all residents and their families concerning home-based and other community-based alternatives.

The applicant complies with this standard.

**(4) Nonelderly Residents. An applicant shall address the needs of its nonelderly (<65 year old) residents by:**

**(a) Training in the psychosocial problems facing nonelderly disabled residents; and**

As was determined during the prior CON review for the addition of 21 CCF beds, Lorien Bel Air has a policy that requires personnel to receive training commensurate with their job functions, addressing the psychosocial problems facing non-elderly, disabled residents. The training addresses, but is not limited to, such issues as mental health stressors in newly diagnosed non-elderly disabled patients, helping residents cope with physical disability, recognizing depression, barriers to successful rehabilitation, assisting the resident in living with a new body image, behavior management, socialization skills, referring residents for family counseling, and strategies for coping with sexual dysfunction. (DN 13-12-2345, February 20, 2014, p. 7).

**(b) Initiating discharge planning immediately following admission with the goal of limiting each nonelderly resident’s stay to 90 days or less, whenever feasible, and voluntary transfer to a more appropriate setting.**

Lorien Bel Air states that it initiates discharge planning immediately following admission and that its policy states that residents receive care in the least restrictive therapeutic setting, which includes the community with appropriate support. If the non-elderly resident’s stay in a nursing facility exceeds 90-days, staff will re-evaluate the discharge plan every 90-days thereafter to determine if the resident’s status has changed and care in a lesser non-institutional setting would be appropriate. (DI #4, p.45, and DN 13-12-2345, February 20, 2014, p. 7)

Based on its response, the applicant complies with this standard.

**(5) Appropriate Living Environment.** An applicant shall provide to each resident an appropriate living environment, including, but not limited to:

**(a) In a new construction project:**

- (i) Develop rooms with no more than two beds for each patient room;**
- (ii) Provide individual temperature controls for each patient room; and**
- (iii) Assure that no more than two residents share a toilet.**

**(b) In a renovation project:**

- (i) Reduce the number of patient rooms with more than two residents per room;**
- (ii) Provide individual temperature controls in renovated rooms; and**
- (iii) Reduce the number of patient rooms where more than two residents share a toilet.**

As illustrated in Table 1 below, the 117 CCF beds of this facility will be located in 27 private and 45 semi-private rooms upon project completion. Private rooms will increase from only 5 of 37 total patient rooms (13.5%) before the project, to 27 of 72 patient rooms (37.5%) upon project completion.

**Table 1: Lorien Bel Air Room Configuration  
Before and After Project Completion**

<b>Current CCF Room Schedule</b>			
<b>Nursing Unit</b>	<b>Semi Private Rooms</b>	<b>Private Rooms</b>	<b>Total # Beds</b>
<b>Unit/Station A</b>	18	4	40
<b>Unit/Station B</b>	14	1	29
<b>Total</b>	<b>32</b>	<b>5</b>	<b>69</b>
<b>Room Schedule After Completion</b>			
<b>Nursing Unit</b>	<b>Semi Private Rooms</b>	<b>Private Rooms</b>	<b>Total # Beds</b>
<b>Unit/Station A</b>	17	5	39
<b>Unit/Station B</b>	14	2	30
<b>Unit/Station C</b>	14	20	48
<b>Total</b>	<b>45</b>	<b>27</b>	<b>117</b>

Source: DI #4, pp.46, & 49, and Appendix 1, p. 102.

The applicant states that each patient room will have individual temperature controls and that no more than two residents will share a toilet.

- (c) **An applicant may show evidence as to why this standard should not be applied to the applicant.**

Because the design of Lorient Bel Air after project completion provides the required appropriate living environment, standard (5)(c) is not applicable.

- (6) **Public Water. Unless otherwise approved by the Commission and the Office of Health Care Quality in accordance with COMAR 10.07.02.26, an applicant for a nursing home shall demonstrate that its facility is, or will be, served by a public water system.**

The existing building is currently served and will continue to be served by public utilities that include public water, sewer, electricity and telephone utilities. This standard is met.

- (7) **Facility and Unit Design. An applicant must identify the special care needs of the resident population it serves or intends to serve and demonstrate that its proposed facility and unit design features will best meet the needs of that population. This includes, but is not limited to:**
  - (a) **Identification of the types of residents it proposes to serve and their diagnostic groups;**
  - (b) **Citation from the long term care literature, if available, on what types of design features have been shown to best serve those types of residents;**
  - (c) **An applicant may show evidence as to how its proposed model, which is not otherwise documented in the literature, will best serve the needs of the proposed resident population.**

Lorient Bel Air is an existing facility that serves both short- and long-stay residents, including those admitted for rehabilitation services. The applicant reports that commonly seen conditions/diagnoses of rehabilitation patients treated include individuals recovering from stroke, hip replacement, rehabilitation for total knee replacement, treatment of sepsis, post-acute treatment for chronic obstructive pulmonary disease (COPD), congestive heart failure, vascular accidents, post-myocardial infarction, post-coronary artery bypass grafts, and complex wounds and incisional infections.

The applicant responded that long-stay patients include: low acuity patients requiring chronic medical management; physical and occupational rehabilitation patients; dementia patients who would benefit from the social aspects of a shared room; and Alzheimer patients. Higher acuity long-term patients include those with chronic respiratory illness; Alzheimer's

residents who have acute coexisting conditions; patients requiring aggressive infection control and management of nosocomial infections; bariatric patients requiring size-appropriate furnishings and equipment; patients requiring aggressive bedside physical and occupational therapy support; and patients who require extensive support through therapeutic recreation to manage their psychosocial needs.

The 117 CCF beds will be located on the third floor of the facility in three separate units. Unit A will have 39 CCF beds (5 private and 17 semi-private rooms) and serve long term patients who are less ambulatory and may benefit from sharing a room and interacting with a roommate and visitors. Unit B will have 30 beds (2 private and 14 semi-private rooms) and serve as a “flex” unit that serves both short- and long-term patients. The new Unit C will operate with 48 beds (20 private and 14 semi-private rooms) that will primarily serve short-term rehabilitation patients.

The facility will not have a discrete unit that serves only Alzheimer’s Disease patients, but will provide care to Alzheimer’s Disease and Related Disorders (ADRD) patients throughout the facility. Lorien expects the design of the new third floor addition, as well as re-design of certain existing space and programmatic areas, to create a therapeutic environment to assist in stimulating and enhancing the cognitive status of patients. The three nursing units will have centralized nursing stations serving 39, 30, and 48 beds respectively, allowing staff to be closer and better able to observe, interact, provide security, and intervene with patients. (DI #4, pp.49-51).

The applicant has demonstrated compliance with this standard.

- (8) Disclosure. An applicant shall disclose whether any of its principals have ever pled guilty to, or been convicted of, a criminal offense in any way connected with the ownership, development, or management of a health care facility.**

Lorien Bel Air states that none of the “principals have ever pled guilty to or been convicted of a criminal offense in any way connected with the ownership, development, or management of a health care facility.” (DI #4, p. 52). The applicant is found to comply with this standard.

- (9) Collaborative Relationships. An applicant shall demonstrate that it has established collaborative relationships with other types of long term care providers to assure that each resident has access to the entire long term care continuum.**

Lorien Bel Air has established relationships with other types of health care providers in this jurisdiction. The applicant’s previously submitted examples of transfer or referral agreements for services remain in effect. (DN 13-12-2345 at Appendix 4) These agreements cover behavioral health, hospice care, home health care, other Lorien nursing and rehabilitation facilities, and with a hospital in Harford County.

The applicant has demonstrated compliance with this standard.

**B. New Construction or Expansion of Beds or Services. The Commission will review proposals involving new construction or expansion of comprehensive care facility beds, including replacement of an existing facility or existing beds, if new outside walls are proposed, using the following standards in addition to .05A(1)-(9):**

**(1) Bed Need**

- (a) An applicant for a facility involving new construction or expansion of beds or services, using beds currently in the Commission's inventory, must address in detail the need for the beds to be developed in the proposed project by submitting data including, but not limited to: demographic changes in the target population; utilization trends for the past five years; and demonstrated unmet needs of the target population.**

Although the proposed project involves the expansion of beds and certain services through a combination of new construction and renovation, it does not utilize beds currently in the Commission's inventory, rendering this standard inapplicable.

Though not necessary to address this standard, population projections are included in the table below. These projections indicate modest *overall* 11.6% population growth in Harford County through 2030, with rates slightly lower than the State overall. Population in the county will increase from 244,826 in 2010 to 273,147 in 2030, an increase of 28,321, or 11.59%. However, the 65+ age cohort will increase by 30,045, or 98.3%, from 30,564 in 2010 to 60,609 in 2030, thereby outpacing the statewide 83.71% rate. This population growth is taken into consideration in the Commission's CCF bed need projection applicable to this project.



**Population Projections: Harford County and State of Maryland, CY 2010 - 2030**

Harford Co.	2010	2015	2020	2025	2030	2010-2015	2015-2020	2020-2025	2025-2030
	Population by Age Cohort					Projected Increase (Decrease)			
0-64	214,262	214,494	214,207	212,447	212,538	0.1%	-0.1%	-0.8%	0.0%
65-74	17,396	22,207	25,971	29,758	32,987	27.7%	17.0%	14.6%	10.9%
75-84	9,596	10,217	12,279	15,697	18,523	6.5%	20.2%	27.8%	18.00%
85+	3,572	5,082	6,191	7,195	9,099	42.3%	21.8%	16.2%	26.5%
<b>Total</b>	<b>244,826</b>	<b>252,000</b>	<b>258,648</b>	<b>265,097</b>	<b>273,147</b>	<b>2.9%</b>	<b>2.6%</b>	<b>2.5%</b>	<b>3.0%</b>

State of Maryland	2010	2015	2020	2025	2030	2010-2015	2015-2020	2020-2025	2025-2030
	Population by Age Cohort					Projected Increase (Decrease)			
0-64	5,065,910	5,171,167	5,240,174	5,279,775	5,312,179	2.1%	1.3%	0.8%	0.6%
65-74	386,357	493,826	584,116	658,770	715,532	27.8%	18.3%	12.8%	8.6%
75-84	223,159	232,374	279,015	358,048	425,467	4.1%	20.1%	28.3%	18.8%
85+	98,126	112,774	121,206	133,156	159,013	14.9%	7.5%	9.9%	19.4%
<b>Total</b>	<b>5,773,552</b>	<b>6,010,141</b>	<b>6,224,511</b>	<b>6,429,749</b>	<b>6,612,191</b>	<b>4.1%</b>	<b>3.6%</b>	<b>3.3%</b>	<b>2.8%</b>

Source: Maryland Department of Planning - 2014 Total Population Projections by Age, Sex and Race

As discussed earlier, MHCC projects a need for 97 additional CCF beds in Harford County (note: the 21 beds previously approved for Lorient Bel Air are included in the bed inventory even though not yet built). If this CON application is approved, the additional 27 beds combined with the MHCC-approved 70 CCF beds for Lorient Harford (Docket No. 15-12-2359), will meet all of the projected CCF bed need for this jurisdiction.

In summary, the proposed 48-bed CCF addition at Lorient Bel Air is consistent with the bed need standard. While Harford County is expected to experience slight growth in the population overall through 2030, the number of residents in the 65+ age cohort will experience much higher growth rates that will outpace the statewide rate.

- (b) **For a relocation of existing comprehensive care facility beds, an applicant must demonstrate need for the beds at the new site, including, but not limited to: demonstrated unmet needs; utilization trends for the past five years; and how access to, and/or quality of, needed services will be improved.**

The project does not include a change in location; this standard is not applicable.

**(2) Facility Occupancy.**

- (a) **The Commission may approve a nursing home for expansion only if all of its beds are licensed and available for use, and it has been operating at 90 percent or higher, average occupancy for the most recent consecutive 24 months.**

**(b) An applicant may show evidence why this rule should not apply.**

As seen in the table below, Lorien Bel Air has experienced occupancy rates greater than 93% in each of the last six years.

**Table 2: Occupancy Rates  
Nursing Homes in Harford County  
FY 2008- FY 2014**

Facility	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
Bel Air Health & Rehab Ctr.	94.1%	93.7%	93.6%	94.3%	94.3%	93.5%
Citizens Care Center	93.3%	93.7%	91.8%	93.4%	93.3%	94.1%
Forest Hill Health & Rehab Ctr.	93.7%	93.2%	94.4%	93.3%	92.4%	92.5%
Lorien Riverside Nursing Ctr.	92.7%	90.9%	93.5%	93.9%	91.3%	95.6%
Lorien Bel Air	94.9%	93.2%	93.2%	93.9%	93.8%	95.9%

*(Source: MHCC's Public Use Databases and 2012 Medicaid Cost Reports, DI # 4, p. 53; 2014 data from MHCC's Long Term Care Survey)*

The facility's bed occupancy rate exceeded 90% in each of the last three 12-month periods, as required by the standard. All operational beds at Lorien Bel Air are licensed and available for use. The applicant is consistent with this standard.

**(3) Jurisdictional Occupancy.**

- (a) The Commission may approve a CON application for a new nursing home only if the average jurisdictional occupancy for all nursing homes in that jurisdiction equals or exceeds a 90 percent occupancy level for at least the most recent 12 month period, as shown in the Medicaid Cost Reports for the latest fiscal year, or the latest Maryland Long Term Care Survey, if no Medicaid Cost Report is filed. Each December, the Commission will issue a report on nursing home occupancy.**

**(b) An applicant may show evidence why this rule should not apply.**

The applicant is not proposing a new nursing home; therefore, the standard does not apply. However, as shown in the Table 3 above, occupancy rates for facilities in the jurisdiction have been consistently healthy. Only Lorien Bulle Rock, which opened in June 2013 and is still in its fill-up phase, was below 90% for 2014; it was at 83.6%. Jurisdictional occupancy in 2014 was 93.0%, comfortably above the standard's threshold.

**(4) Medical Assistance Program Participation.**

- (a) An applicant for a new nursing home must agree in writing to serve a proportion of Medicaid residents consistent with .05A 2( b) of this Chapter.**
- (b) An applicant for new comprehensive care facility beds has three years during which to achieve the applicable proportions of Medicaid participation from the time the facility is licensed, and must show a good faith effort and reasonable progress toward achieving this goal in years one and two of its operation.**
- (c) An application for nursing home expansion must demonstrate either that it has a current Memorandum of Understanding (MOU) with the Medical Assistance Program or that it will sign an MOU as a condition of its Certificate of Need.**
- (d) An applicant for nursing home expansion or replacement of an existing facility must modify its MOU upon expansion or replacement of its facility to encompass all of the nursing home beds in the expanded facility, and to include a Medicaid percentage that reflects the most recent Medicaid participation rate.**
- (e) An applicant may show evidence as to why this standard should not be applied to the applicant.**

Lorien Bel Air currently has an MOU with the Medical Assistance Program and “agrees to execute a new MOU covering ALL its 117 nursing beds, as required.” (DI #4, p. 61)

Since FY2008 Lorien has had a slightly-higher-than-required proportion of Medicaid days (as reported in MHCC’s Long Term Care Survey). This contrasts with the early years of this facility’s operation. (See a complete treatment of this history later in this report, under Compliance With Conditions Of Previous Certificates Of Need.)

As stated earlier, staff concludes that the application is consistent with this standard, and recommends that approval of this application be conditioned on documentation that a modified MOU (i.e., applying to all beds) is in place when the project is complete and first use approval is requested. The proposed condition is as follows:

At the time of first use review, Lorien Bel Air shall provide the Commission with a modified Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2) for all of Lorien Bel Air’s licensed CCF beds and shall maintain compliance with the Memorandum of Understanding.

- (5) **Quality.** An applicant for expansion of an existing facility must demonstrate that it has no outstanding Level G or higher deficiencies, and that it maintains a demonstrated program of quality assurance.

The applicant states that Lorien Bel Air does not have any outstanding Level G or higher deficiencies, a statement that was corroborated by staff review. Lorien Bel Air included a letter from its Chief Operations Officer, J. Wayne Braddock, who states that the facility has a Quality Assurance Plan that complies with COMAR 10.07.02.45 and 10.07.02.46; that follows “stated guidance from CMS to comply with the Affordable Care Act regulations;” and includes a Table of Contents from the plan.

The table below includes a selection of measures that MHCC staff considers to be among the most important quality measures extracted from surveys conducted by CMS and OHCQ and listed in MHCC’s *Consumer Guide to Long Term Care*, showing how the applicant’s performance compared to statewide averages. Although the facility rated lower than the statewide average on the Quality Measures with regard to “Pain,” the facility outperformed State averages on most of the remaining 12 measures.

Quality Measure	Lorien Bel Air	Maryland Average
<b>Falls</b>		
Long-stay residents that did not fall and sustain a major injury	99%	97%
<b>Pain</b>		
Long-stay residents who do not report moderate to severe pain.	84%	95%
Short stay residents who did not have moderate to severe pain.	71%	85%
<b>Pressure ulcers</b>		
High risk long stay residents without pressure sores.	92%	93%
Short stay residents that did not develop new pressure ulcers or with pressure ulcers that stayed the same or got better.	99%	99%
<b>Vaccinations</b>		
Long stay residents assessed and given influenza vaccination during the flu season.	98%	95%
Short stay residents assessed and given influenza vaccination during the flu season.	96%	84%
Nursing home staff receiving influenza vaccination during flu season (2013-2014).	90%	79%
<b>Restraints</b>		
Percent of long-stay residents who were not physically restrained.	100%	99%
<b>Deficiencies</b>		
Number of deficiencies cited in the most recent annual OHCQ health inspection (8/26/14).	1	11
<b>Resident/Family Satisfaction Survey Results</b> (2014 Long Stay and Short Stay Surveys)		
The rating of overall care provided in the nursing home – long term residents. (1 being worst care and 10 the best care.)	8.8	8.3
The rating of overall care received from the nursing home staff, overall – short stay residents. (1 being worst care and 10 the best care.)	8.7	7.9
Percentage of long term residents/family who responded "Yes" to "Would you recommend the Nursing Home?"	100%	88%

Percentage of short stay residents/family who responded "Yes" to "Would you recommend the Nursing Home?"	93%	81%
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Source: MHCC Consumer Guide to Long Term Care

Staff recommends that the Commission find that the applicant meets this standard.

- (6) **Location.** An applicant for the relocation of a facility shall quantitatively demonstrate how the new site will allow the applicant to better serve residents than its present location.

The project does not include a change in location; the standard is not applicable.

## OTHER CERTIFICATE OF NEED REVIEW CRITERIA

The project's compliance with the five remaining general review criteria in the Regulations governing Certificate of Need is outlined below:

### B. NEED

***COMAR 10.24.01.08G(3)(b) Need. The Commission shall consider the applicable need analysis in the State Health Plan. If no State Health Plan need analysis is applicable, the Commission shall consider whether the applicant has demonstrated unmet needs of the population to be served, and established that the proposed project meets those needs.***

#### **The application comports with the applicable Bed Need Analysis**

The applicable 2016 bed need projection for nursing home beds (corrected and updated) published in the October 3, 2014 *Maryland Register* shows a need for 97 additional CCF beds in Harford County. Lorien Bel Air has submitted a proposal that will add 27 CCF beds from the need projection (along with 21 previously approved beds) to its existing 69-bed facility. Approval of this application, in conjunction with approval of the recent 70-bed Lorien Harford Nursing and Rehabilitation Center proposal, will meet the jurisdiction's projected bed need. Therefore, the application is in harmony with the bed need projections in the State Health Plan.

#### **Occupancy Rates of Existing Providers Exceeds 90%**

The average jurisdictional occupancy rate for all nursing homes in Harford County for 2014 was 93.0%, according to the 2014 MHCC Long Term Care Survey.

As previously mentioned in discussion of COMAR 10.24.08.05(B)(2)(b), occupancy data from 2009 through 2014 for the five CCF facilities that were fully operational in the jurisdiction over that timeframe shows that each facility exceeded 90% occupancy in each of those years. Data for Lorien Bulle Rock, which opened during spring 2013, are not included in the chart.

### **Projections show an aging service area population**

As previously discussed, the total population in Harford County will grow by more than 28,000 (11.6%) from 2010 to 2030, slightly lower than the state overall. However, in the 65+ age cohort, the increase will be 30,045, or 98.3%, from 30,564 in 2010 to 60,609 in 2030, thereby outpacing the statewide 83.71% growth rate for the 65+ cohort.

In summation, the need projected by MHCC is reinforced by the high utilization of existing nursing homes in this jurisdiction. The addition of 48 CCF beds will allow Lorien Bel Air to provide these services to residents who wish to remain in Harford County. The integration of assisted living units offered at Lorien Bel Air may also be attractive to residents seeking a continuum of care in one location.

The applicant has demonstrated that the proposed project is needed in Harford County.

### **C. AVAILABILITY OF MORE COST-EFFECTIVE ALTERNATIVES**

***COMAR 10.24.01.08G(3)(c) Availability of More Cost-Effective Alternatives. The Commission shall compare the cost effectiveness of the proposed project with the cost effectiveness of providing the service through alternative existing facilities, or through an alternative facility that has submitted a competitive application as part of a comparative review.***

Lorien Bel Air is the only applicant for Harford County seeking to add a total of 48 CCF beds to the existing 69 bed comprehensive care facility. This application was one of two proposals submitted, both by Lorien affiliated entities, to add capacity toward meeting the corrected and updated 2016 Projected Need for Nursing Home Beds in Harford County. Combined, the two proposals totaled 97 beds, and would meet the identified CCF bed need for this jurisdiction. This proposal seeks to add 48 beds, including 21 previously approved (DN 13-12-2345), and the 27 additional beds sought in this application. If approval is granted, Lorien Bel Air will have 117 approved CCF beds. No other proposals were submitted.

Lorien states that it considered locating additional beds at its other facilities in Harford County. The applicant does not consider Lorien Bulle Rock appropriate for expansion as it is a new facility still moving toward a stable occupancy rate. Lorien Riverside's site was deemed by the applicant to be unsuitable for expansion. The alternative of adding 97 beds at the Bel Air facility was deemed inappropriate due to the resultant size of the CCF (187 beds), which would also require further expansion of its assisted living facility (ALF). The applicant stated that neither of these options fits with "Lorien's model" regarding the offering of a continuum of care.

The applicant also considered building a new 97-bed facility in Harford, but concluded that increasing demand for CCF and ALF beds at Lorien Bel Air warrants the proposed 48 CCF bed expansion in conjunction with the ALF expansion presented in the application (DI #14, p. 19). Further, the applicant states that its "aging-in-place" model will offer seniors access to a range of services as they age, which would allow them to remain in Harford County and not leave the area. For these reasons, the applicant believes that the more appropriate model for Lorien is to increase the Bel Air facility to 117 CCF beds. (DI #4, p. 71)

Staff compared the applicant's estimated cost of constructing the nursing home addition to a benchmark cost based on the Marshall Valuation Service (MVS) guidelines for building construction. Estimated construction costs were \$6.14/SF, or 3.6%, above the MVS benchmark. Estimated renovation costs for 400 SF of space were \$109.16/SF, or 50.0% below the MVS benchmark. (DI #4, pp. 75, 77).

Staff concludes that the proposed addition of a three-story addition that includes 48 CCF beds and 34 assisted living units is the most cost-effective alternative for meeting the needs for nursing home beds in Harford County and is the most practical alternative for Lorien Bel Air.

#### **D. VIABILITY OF THE PROPOSAL**

***COMAR 10.24.01.08G(3)(d) Viability of the Proposal. The Commission shall consider the availability of financial and nonfinancial resources, including community support, necessary to implement the project within the time frames set forth in the Commission's performance requirements, as well as the availability of resources necessary to sustain the project.***

##### **Availability of Resources Necessary to Implement the Project**

The total cost of constructing the proposed 54,960 SF addition is \$13,033,743, with \$5,807,345 allocated to the nursing home portion of the project. The total project budget can be found at Appendix 4. Lorien will fund the project with approximately \$2.5 million in cash, a \$540,000 fixture, furnishings, and equipment ("FFE") loan, and a \$10 million mortgage loan.

Based on his working relationship with the applicant and his knowledge of the related health care entities operated by the Mangione family, Michael J. Snarski, CPA, provided an opinion that the Mangione family has the financial resources and assets available to provide the equity contribution and the equipment loan requirements for this project. (DI #4, Exhibit 5) The applicant provided a copy of a letter from Elizabeth M. Phelan, Senior Vice President with Wells Fargo Bank, indicating an existing relationship with the Mangione family and interest in considering a construction loan should the project receive CON approval. (DI #4, Exhibit 6) These two documents indicate that Lorien Harford has the resources to meet its expected cash contribution, and has lined up a commercial bank to provide financing for the construction of the three-story addition to Lorien Bel Air.

##### **Availability of Resources Necessary to Sustain the Project**

###### **(a) Finances**

A summary of the Projected Revenue and Expense Statement is provided below. A detailed statement showing the historical and projected financial performance for Lorien Bel Air is provided in Appendix 5.

	Actual		Projected			
Revenue	2013	2014	2015	20x1	20x2	20x3
Net Operating Revenues	\$11,635	\$12,675	\$12,606	\$16,480	\$20,129	\$20,180
Total Operating Expenses	10,322	11,055	11,075	15,820	17,718	17,718
Net Income (loss)	\$1,313	\$1,620	\$1,531	\$660	\$2,411	\$2,462

Below are the key utilization and operating statistics for Lorian Bel Air both before and after project completion.

Nursing Home	2013	2014	2015	20x1	20x2	20x3
Licensed Beds	69	69	69	117	117	117
Admissions	540	566	578	765	940	940
Patient Days	23,619	24,028	23,725	32,492	39,784	39,784
Occupancy Percentage	93.8%	95.2%	94.2%	76.1%	93.2%	93.2%
<b>Payer Mix (by patient days)</b>						
Medicare	35.3%*	--	--	35.4%	33.0%	33.0%
Medicaid	52.4%*	--	--	49.2%	53.2%	53.2%
Commercial Insurance	5.8%*	--	--	9.2%	8.3%	8.3%
Self Pay	6.6%*	--	--	6.2%	5.5%	5.5%
Gross Revenue/Pt. Day	\$495.96	\$532.63	\$537.70	\$513.57	\$512.64	\$513.90
Net Revenue/Pt. Day	\$490.07	\$522.77	\$527.00	\$503.48	\$502.51	\$503.75
Expense/Pt. Day	\$437.02	\$460.09	\$466.81	\$486.89	\$445.35	\$445.35
Operating Margin/Pt. Day	\$55.59	\$67.42	\$64.53	\$20.31	\$60.60	\$61.88

--\* Sourced from MHCC 2013 Long Term Care Survey

Lorien projects that the facility will maintain profitability throughout the period during which the proposed addition will be implemented and operation of the larger facility will be initiated. The applicant projects that, with the completion and start of operation, the 117-bed CCF would have a Medicaid participation rate of 49.2% for the first year of operation, with an projected increase to 53.2% by the second and third year of operation. These rates would exceed the required 48.6% Medicaid participation rate that MHCC reported for Harford County in FY 2013.<sup>5</sup>

### **(b) Staffing**

The applicant expects to hire a total of 71.1 full time employees ("FTEs") to staff the nursing home at a total cost of \$2.5 million in salaries and \$674,938 in benefits, for a total of \$3,221,874. In addition, Lorian Bel Air projects incurring \$942,663 in contractual staff expenses. Therefore, the total cost of staffing the 117 CCF bed is \$4,164,537 for the first full year of operation. The applicant does not anticipate having any difficulty in recruiting staff for the proposed facility and has extensive experience in staff recruitment in Harford County.

<sup>5</sup> As reported at [http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs\\_ltc/documents/ltc\\_part\\_rate\\_2013\\_20150320.pdf](http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_ltc/documents/ltc_part_rate_2013_20150320.pdf).



The table below provides the projected nurse staffing by shift. The applicant states that it will have a direct care staffing schedule that will deliver an overall average ratio of 4.0 nursing hours per bed per day across the facility. Staffing does not change during the weekends or holidays. These staffing ratios exceed the minimum of two hours per-bed-per-day required by COMAR 10.07.02.12.

<b>Nurse and Nurse Aide Staffing Lorien Bel Air</b>				
	<b>Day</b>	<b>Evening</b>	<b>Night</b>	<b>Total Hours</b>
R.N.	40	32	16	88
L.P.N.	16	16	24	56
Unit Mgr/ Super-RN	8	8	8	24
CNAs	105	90	60	255
Medicine Aides	24	24	0	48
Total Hours	193	170	108	471
<b>Total Hours Bedside Care per Bed per Day = 4.0</b> (471 hours/117 beds)				

### **Summary of Compliance with Viability Criterion**

The applicant has demonstrated that Lorien Bel Air can obtain the resources necessary for project development. The projection of positive operating margins by the first year of operation are based on assumptions with respect to utilization, revenues, expenses, staffing, and payer mix that are within acceptable ranges. For these reasons, staff concludes that the applicant will have sufficient resources to sustain the operation of the new facility. Staff recommends a finding that the project is financially viable.

### **E. COMPLIANCE WITH CONDITIONS OF PREVIOUS CERTIFICATES OF NEED**

***COMAR 10.24.01.08G(3)(e) Compliance with Conditions of Previous Certificates of Need. An applicant shall demonstrate compliance with all terms and conditions of each previous Certificate of Need granted to the applicant, and with all commitments made that earned preferences in obtaining each previous Certificate of Need, or provide the Commission with a written notice and explanation as to why the conditions or commitments were not met.***

Lorien Harford, Inc. has received three CON approvals related to the establishment of Lorien Bel Air. The first CON was for the acquisition of 40 comprehensive care beds formerly owned and operated at Brevin Nursing Home and the relocation of those beds to a new facility (Docket No. 98-12-2048). The second CON approval was for the addition of 22 CCF beds to the previously approved comprehensive care facility (Docket No. 01-12-2085). The third was

the February 2014 approved-but-unimplemented CON (Docket No. 13-12-2345) to add 21 CCF beds

The first two CON approvals included a number of terms and conditions, including terms related to performance requirements. While the development of Lorien Bel Air encountered delays with meeting the performance requirements for these two projects, the facility was, with approved extensions, completed within the allowable extended time.

However, the applicant had difficulty fulfilling the condition related to a Memorandum of Understanding ("MOU") with the Maryland Medical Assistance Program to maintain the proportion of Medicaid patients required by standard .05A(3) of COMAR 10.24.08, the State Health Plan chapter for Long Term Care Facilities and Services, effective April 15, 2002. At that time the minimum proportion of Medicaid patients was equal to the proportion of Medicaid patients in all other nursing home beds in the jurisdiction or the region (Harford County or Central Maryland in the case of Lorien Bel Air). Lorien Harford signed such an MOU on August 8, 2002 to provide a minimum proportion of 66.54% of its patient-days to Medicaid patients.

Lorien Bel Air opened in October 2002 with 62 CCF beds. Under the standard, it had three years to achieve the applicable proportion of Medicaid patients, but was required to make a good faith effort towards achieving the goal in years one and two of operation.

The Commission adopted a new State Health Plan chapter for long term care facilities and services, effective March 12, 2007. This new chapter included a revision in the method of calculating the minimum proportion of Medicaid patients. The new calculation method set the minimum proportion at the weighted mean for the jurisdiction and region minus 15.5%. Lorien Harford sought a revised MOU based on the calculation method, which was approved retroactive to December 14, 2007 at a minimum participation rate of 46.82%. The table below displays a comparison of Lorien Bel Air's service to Medicaid patients compared to the minimum required by the MOU and the minimum percentages calculated by the Commission with the new formula for Harford County and Central Maryland.

**Comparison of the Medicaid Participation Rates  
Achieved by Lorien Harford, Inc., with the requirement  
under its Memorandum of Understanding**

<b>Year</b>	<b>Percent of Patient-Days filled by , Medicaid patients (Source: MHCC LTC Survey)</b>	<b>Minimum Medicaid Participation Rate Required by the MOU</b>
FY 2003	17.0%	66.5%
FY 2004	34.0%	66.5%
FY 2005*	37.6%	66.5%
FY 2006	39.1%	66.5%
FY 2007	47.9%	66.5%
FY 2008	49.8%	46.8%
FY 2009	53.2%	46.8%
FY 2010	55.2%	46.8%
FY 2011	49.0%	46.8%
FY 2012	50.0%	46.8%
FY2013	52.4%	46.8%

\*Addition of 7 CCF waiver beds, increasing from 62 to 69 CCF beds, effective Dec. 1, 2005.

While Lorien Bel Air did not meet the required minimum level of Medicaid participation by its third year of operation (achieving it only in 2008, its sixth year of operation), it has met the MOU's requirement in the most recent six years for which data is available.

**F. IMPACT ON EXISTING PROVIDERS AND THE HEALTH CARE DELIVERY SYSTEM**

***COMAR 10.24.01.08G(3)(f) Impact on Existing Providers and the Health Care Delivery System. An applicant shall provide information and analysis with respect to the impact of the proposed project on existing health care providers in the health planning region, including the impact on geographic and demographic access to services, on occupancy, on costs and charges of other providers, and on costs to the health care delivery system.***

Lorien Bel Air states that no other provider offers its "combined model." Lorien believes its "aging in place" model is an innovative approach to offering integrated care that is unique in the area and can contribute to a higher quality of life for the residents. Lorien states that its aging-in-place model has benefitted the health care system and do not have a negative impact on existing infrastructure. (DI #4, p. 83).

The MHCC's CCF bed need projections show that the total number of CCF beds in inventory in Harford County is 806, resulting in a net bed need of 97 beds. With the recent approval of Lorien Harford's 70 bed facility in Forest Hill, approving the 27 additional CCF beds at Lorien Bel Air, for a total of 48 additional beds at the facility, satisfies the projected need in Harford County. Staff believes that the proposed project has the advantage of increasing private

rooms as well as expanding access to an aging-in-place model and notes that no existing provider sought interested party status in the review. Other providers are unlikely to be negatively impacted because current utilization in the jurisdiction is healthy, with a jurisdictional occupancy rate above 90% in 2014.

For these reasons, staff concludes that the addition of these 48 nursing home beds may have a positive impact on the population in Harford County, and recommends that the Commission find that the applicant complies with this standard.

### **III. SUMMARY AND STAFF RECOMMENDATION**

Staff has analyzed the proposed project's compliance with the applicable State Health Plan criteria and standards in COMAR 10.24.01.08.05A and B, and with Certificate of Need review criteria, COMAR 10.24.01.08G(3)(a)-(f).

Based on these findings, Staff recommends that the project be **APPROVED**, with the following condition:

At the time of first use review, Lorien Bel Air shall provide the Commission with a modified Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2) for all of Lorien Bel Air's licensed CCF beds and shall maintain compliance with the Memorandum of Understanding.

IN THE MATTER OF

LORIEN HARFORD, INC.

DOCKET NO. 15-12-2358

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\*  
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\*  
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BEFORE THE

MARYLAND HEALTH

CARE COMMISSION

\*\*\*\*\*

**FINAL ORDER**

Based on Commission Staff's analysis in its Report and Recommendation, it is this 16<sup>th</sup> day of July, 2015, **ORDERED** that:

The application for Certificate of Need submitted by Lorien Harford, Inc., d/b/a Lorien Bel Air, to build a three-story addition with 48 comprehensive care facility beds to the facility operating at 1909 Emmorton Road in Bel Air, at an estimated cost of \$5,807,345, be and hereby is **APPROVED**, subject to the following condition:

At the time of first use review, Lorien Bel Air shall provide the Commission with a modified Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2) for all of Lorien Bel Air's licensed CCF beds and shall maintain compliance with the Memorandum of Understanding..

This Certificate of Need supersedes and replaces the February 20, 2014 CON (Docket No. 13-12-2345) issued to Lorien Bel Air for a 21-bed addition to the facility,. That CON is now void.

**MARYLAND HEALTH CARE COMMISSION**

**July 16, 2015**

**APPENDIX 1:**  
**REVIEW OF THE RECORD**

**APPENDIX 1:**

**REVIEW OF THE RECORD**

<b>Docket Item #</b>	<b>Description</b>	<b>Date</b>
1	James A. Forsyth, Esquire, files a letter of intent ("LOI") on behalf of Lorien Harford, Inc., d/b/a Lorien Bel Air, for a 17-bed expansion to the existing 69-bed comprehensive care facility ("CCF"): MHCC staff acknowledged receipt of the LOI on December 8, 2014.	12/4/2014
2	Commission staff sends a written response denying the request by Lorien Harford, Inc. for a 10-day extension of time to submit the CON application after the scheduled submission date published in the February 6, 2015 <i>Maryland Register</i> .	1/16/2015
3	Lorien submits clarification to the December 4 <sup>th</sup> LOI stating Lorien Bel Air seeks the addition of 27 CCF beds that would be contained in a new third floor addition designed to operate along with 21 previously awarded CCF beds (Docket No. 13-12-2345).	2/6/2015
4	Lorien submits a Certificate of Need (CON) application on behalf of the applicant seeking to expand an existing 69-bed comprehensive care facility with the addition of a three-story addition containing 27 CCF beds that are the subject of this review and 21 previously awarded CCF beds along with 34 assisted living units.	2/6/2015
5	MHCC staff sends letter acknowledging receipt of the application.	2/18/2015
6 & 7	Staff requests that <i>The Harford Democrat Record</i> , <i>The Aegis</i> , and <i>The Baltimore Sun</i> publish notice of receipt of the CON application.	2/18/2015
8	Staff requests that the <i>Maryland Register</i> publish notice of receipt of the CON application.	2/18/2015
9	Following completeness review, Commission staff requests additional information before a formal review of the CON application can begin.	2/24/2015
9A	James A. Forsyth, Esq., submits on behalf of his client a request for the Commission to reconsider: a question asked in the Completeness review regarding "an Applicant's Compliance with Conditions of Previous CONs issued since 1995 by other Nursing Facilities in which the Mangione family has ownership interests;" and whether an approval by the MHCC or its Executive Director for an extension of a CON performance requirement or the issuance of stays due to appeals constitute "black marks" against an Applicant or another Applicant which may share common ownership.	3/3/2015
10 & 11	The Commission receives confirmation from <i>The Record</i> and <i>The Aegis</i> that a Notice of Receipt of Application was published in Harford County on February 27, 2015.	3/4/2015
12	The Commission receives confirmation from <i>The Baltimore Sun</i> that	3/4/2015

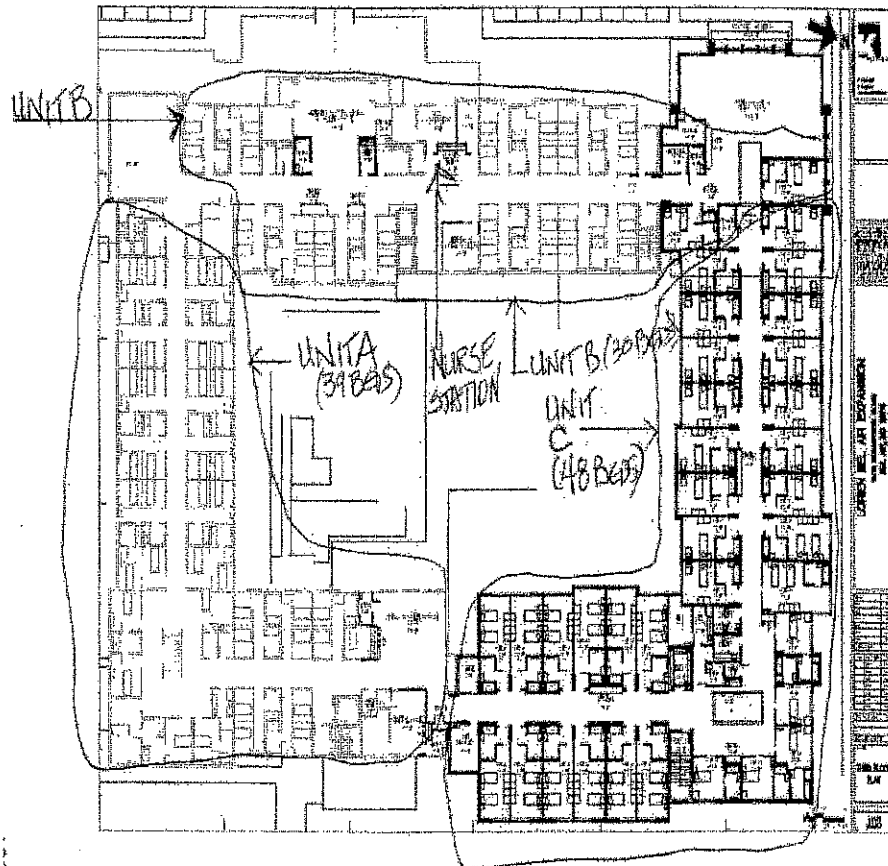
	a Notice of Receipt of Application was published on March 3, 2015.	
13	Commission receives the applicant's responses to staff's February 24, 2015 request for additional information.	3/10/2015
14	Delegates Peter A. Hammen and Shane Pendergrass, and Harford County Executive Barry Glassman submit letters of support for Lorien Bel Air's expansion.	3/13/2015
15	Commission staff acknowledges receipt of Lorien Harford's February 24 <sup>th</sup> response and informs the applicant that notice of docketing of the application will be published in the <i>Maryland Register</i> on April 3, 2015.	3/18/2015
16 & 17	Commission staff requests publication of notice of the formal start of review in <i>The Baltimore Sun</i> , <i>The Harford Democrat Record</i> , and <i>The Aegis</i> .	3/18/2015
18	Commission staff requests publication of notice of the formal start of review in the <i>Maryland Register</i> .	3/18/2015
19	Staff sends a copy of the CON application to the Harford County Health Department for review and comment.	3/24/2015
20 & 21	The Commission receives confirmation from <i>The Record</i> and <i>The Aegis</i> that a Notice of Docketing was published on March 27, 2015.	4/3/2015
22	The Commission receives confirmation from <i>The Baltimore Sun</i> that a Notice of Docketing was published on March 31, 2015.	4/3/2015



**APPENDIX 2:**  
**FLOOR PLAN**

**APX 1 (A) Lorien Belair 3<sup>rd</sup> Floor Nursing Addition – 3 Nursing Stations**

(Unit A = 5 Singles + 17 Doubles = 39 Beds; Unit B = 2 Singles + 14 Doubles = 30 Beds; Unit C = 20 Singles + 14 Doubles = 48 Beds)



**APPENDIX 3:**  
**GROSS AND NET 2016 BED NEED PROJECTIONS**  
**FOR COMPREHENSIVE CARE FACILITY BEDS**

## MARYLAND HEALTH CARE COMMISSION

### GROSS AND NET 2016 BED NEED PROJECTION FOR COMPREHENSIVE CARE FACILITY BEDS (CORRECTED AND UPDATED BED INVENTORY)

In accordance with COMAR 10.24.08.07, the Maryland Health Care Commission (MHCC) publishes the following notice of jurisdictional gross and net bed need for comprehensive care facility (CCF or nursing home) beds. These projections correct and update the projections published in the *Maryland Register* on April 19, 2013 and July 25, 2014. These jurisdictional gross and net bed need projections will apply in the review of Certificate of Need applications acted on by MHCC after the date of their publication. Updated projections published in the *Maryland Register* supersede any published in either the *Maryland Register* or any plan approved by MHCC. Published projections of bed need remain in effect until MHCC publishes updated CCF bed need projections. Projections of net bed need can change during the interim between bed need projection updates as a result of changes in the number of nursing home beds counted in the inventory, in accordance with the rules at COMAR 10.24.08.07F, or changes to correct errors in the data or computation.

Jurisdiction	Bed Inventory as of September 1, 2014					2016 Projected Bed Need			
	Licensed Beds	Temporarily Delicensed Beds	CON Approved Beds	Waiver Beds	Total Bed Inventory	Gross Bed Need Projection	Unadjusted Net Bed Need	Community-Based Services Adjustment	2016 Net Bed Need
<b>WESTERN MARYLAND</b>									
Allegany	869	40	0	22	931	784	-147	40	0
Carroll	934	0	0	10	944	750	-194	45	0
Frederick	1,062	11	0	0	1,084	1,235	155	89	66
Garrett	306	10	0	0	316	262	-54	12	0
Washington	1,113	25	0	0	1,144	1,003	-141	54	0
<b>MONTGOMERY COUNTY</b>									
Montgomery	4,500	72	0	35	4,607	3,651	-956	235	0
<b>SOUTHERN MARYLAND</b>									
Calvert	302	0	0	0	302	325	23	28	0
Charles	418	4	0	0	422	421	-68	31	0
Prince George's	2,775	35	150	0	3,000	2,817	-186	169	0
St. Mary's	277	8	0	0	285	317	32	18	14
<b>CENTRAL MARYLAND</b>									
Anne Arundel	1,726	37	0	53	1,816	1,761	-55	97	0
Baltimore City	3,828	297	0	43	4,168	4,048	-120	380	0
Baltimore County	5,408	16	0	116	5,540	4,585	-955	228	0
Harford	769	2	21	14	806	951	145	48	97
Howard	562	0	0	16	578	734	156	27	129
<b>EASTERN SHORE</b>									
Caroline	187	0	0	0	187	151	-36	5	0
Cecil	406	48	0	2	456	423	-33	24	0
Dorchester	237	21	23	0	281	226	-55	11	0
Kent	228	0	0	0	228	188	-40	19	0
Queen Anne's	120	0	0	0	120	190	70	11	59
Somerset	211	0	0	3	214	172	-42	7	0
Talbot	260	0	0	0	260	272	12	16	0
Wicomico	607	36	0	0	643	543	-100	38	0
Worcester	287	41	0	0	328	359	31	39	0

NOTE: "Net Bed Need" stated as "0" when "Unadjusted Net Bed Need" minus "Community-Based Services Adjustment" is less than zero.

[14-20-49]

**APPENDIX 4:**

**PROJECT BUDGET ESTIMATE – USES AND SOURCES OF FUNDS**

<b>A. Uses of Funds</b>	<b>Nursing Facility</b>	<b>Assisted Living</b>	<b>Total</b>
<b>Capital Costs</b>			
<i><b>New Construction</b></i>			
Building	3,389,344	4,542,656	7,932,000
Fixed Equipment	165,792	222,208	388,000
Land Purchase	0	0	0
Site Preparation	250,825	336,175	587,000
Architect/Engineering Fees	247,834	332,166	580,000
Permits	166,647	223,353	390,000
<i>Subtotal</i>	<i>4,220,442</i>	<i>5,656,558</i>	<i>9,877,000</i>
<i><b>Renovations</b></i>			
Building	42,000	168,000	210,000
<i>Subtotal</i>	<i>42,000</i>	<i>168,000</i>	<i>210,000</i>
<i><b>Other Capital Costs</b></i>			
Movable Equipment	645,792	282,208	928,000
Contingencies	128,190	171,810	300,000
<i>Subtotal</i>	<i>773,982</i>	<i>454,018</i>	<i>1,228,000</i>
<b>Total Current Capital Costs</b>	<b>5,036,424</b>	<b>6,278,576</b>	<b>11,315,000</b>
<i><b>Non Current Capital Costs</b></i>			
Inflation	566,556	706,354	1,272,910
Interest	115,720	155,113	270,833
<b>Total-Proposed Capital Costs</b>	<b>5,718,700</b>	<b>7,140,043</b>	<b>12,858,743</b>
<i><b>Financial and Other Cash Requirements</b></i>			
Loan Placement Fee	42,430	57,570	100,000
Legal Fees (CON related)			0
Legal Fees (Other)	21,215	28,785	50,000
CON Application Assistance	25,000		25,000
<i>Subtotal</i>	<i>88,645</i>	<i>86,355</i>	<i>175,000</i>
<b>Total Uses of Funds</b>	<b>\$5,807,345</b>	<b>\$7,226,398</b>	<b>\$13,033,743</b>
<b>B Sources of Funds</b>	<b>Nursing Facility</b>	<b>Assisted Living</b>	<b>Total</b>
Cash	1,054,345	1,439,398	2,493,743
Mortgage	4,273,000	5,727,000	10,000,000
Other/F, F, & E Loan	480,000	60,000	540,000
<b>Total Sources of Funds</b>	<b>\$5,807,345</b>	<b>\$7,226,398</b>	<b>\$13,033,743</b>

**APPENDIX 5:**  
**REVENUE AND EXPENSE STATEMENT**

	Actual		Current	Projected		
Revenue	2013	2014	2015	20x1	20x2	20x3
Inpatient Services	11,714	12,798	12,757	16,687	20,395	20,445
Allowance For Bad Debt	(139)	(237)	(254)	(328)	(403)	(404)
Contractual Allowances	-	-	-	-	-	-
Charity	-	-	-	-	-	-
<b>Net Revenues</b>	<b>11,575</b>	<b>12,561</b>	<b>12,503</b>	<b>16,359</b>	<b>19,992</b>	<b>20,041</b>
Other Operating Revenues	60	114	103	121	137	139
<b>Net Operating Revenues</b>	<b>\$11,635</b>	<b>\$12,675</b>	<b>\$12,606</b>	<b>\$16,480</b>	<b>\$20,129</b>	<b>\$20,180</b>
Expenses						
Salaries, Wages, etc.	5,670	5,974	6,140	8,537	9,362	9,362
Contractual Services	1,403	1,841	1,758	2,218	2,701	2,701
Interest on Current Debt	118	103	90	85	80	75
Interest on Project Debt				357	351	345
Current Depreciation	326	330	333	334	334	334
Project Depreciation				365	365	365
Project Amortization				35	35	35
Supplies	1,247	1,122	1,136	1,461	1,795	1,801
Other Expenses	1,558	1,685	1,618	2,428	2,695	2,700
<b>Total Operating Expenses</b>	<b>10,322</b>	<b>11,055</b>	<b>11,075</b>	<b>15,820</b>	<b>17,718</b>	<b>17,718</b>
<b>Income from Operation</b>	<b>1,313</b>	<b>1,620</b>	<b>1,531</b>	<b>660</b>	<b>2,411</b>	<b>2,462</b>
<b>Non-Operating Income</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Net Income (loss)</b>	<b>\$1,313</b>	<b>\$1,620</b>	<b>\$1,531</b>	<b>\$660</b>	<b>\$2,411</b>	<b>\$2,462</b>